

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-7258-2023 in/and

CRR-2504-2022 (O&M)

Date of Decision: 17.02.2023

Yogesh

... Petitioner

V/s.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present : Mr. Dhruv Gupta, Advocate
for the petitioner.
Mr. Bhupender Singh, DAG, Haryana.

DEEPAK MANCHANDA, J.(Oral)

CRM-7258-2023

For the reasons mentioned therein, the application seeking placing on record the bail orders of the co-accused Dev Kumar and Arun Dinkar, is allowed subject to all just exceptions.

CRR-2504-2022

The instant revision petition has been filed to challenge the order dated 14.10.2022 passed by the Juvenile Justice Board, District Panchkula whereby, the bail to the present petitioner aged 17 years (who has already been declared juvenile) has been declined and the same has been affirmed by Additional Sessions Judge/Special Judge, District Panchkula dated 29.10.2022.

The case of the petitioner is that he was taken into protective

custody in FIR No. 259 dated 07.05.2022 under Sections 4, 14, 17 of POCSO Act, 2012 and Sections 67, 67-B of Information Technology (Amendment) Act, 2008 and Section 506 IPC registered at Police Station Pinjore, District Panchkula.

Learned counsel for the petitioner contends that the petitioner was taken into protective custody on 07.05.2022. As per the allegations levelled in the FIR, the petitioner, who is the neighbor of the complainant, did wrong act with the son of the complainant, who was 15 years old and even made a video with the help of two of his friends. Learned counsel submits that the bail application of the petitioner has been dismissed by both the Courts below only on the ground that if released on bail he would come in close proximity to the victim as he resides near the house of the complainant; and he may be exposed to moral and psychological danger and also his release would defeat the ends of justice. He further contends that the report of SIT has been received which states that the petitioner was not aware of the consequences of the Act and the counselling is the only remedy in such cases. Learned counsel also placed his reliance on the judgment rendered by the Co-ordinate Bench in **CRR-53-2021** dated **08.02.2021** titled as ***Vishvas vs. State of Punjab*** and the bail which has been allowed to the co-accused Dev Kumar and Arun Dinkar by the Additional Sessions Judge, Panchkula. below. He also submits that there is no other case pending against the petitioner and the material witnesses i.e. the complainant and the brother of the victim stand examined and nothing is to be recovered from the petitioner and the conclusion of trial will take sufficient time, therefore, the petitioner be enlarged on bail.

Per contra, learned counsel appearing on behalf of respondent-

State, on instructions from the Investigating Officer, opposes the grant of regular bail to the petitioner, while submitting that the offence alleged against the petitioner is serious and heinous in nature, however, he does not dispute that the petitioner is a juvenile and that the material witnesses including the complainant and brother of the victim stand examined.

I have heard learned counsel for the parties.

Petitioner is in protective custody since 07.05.2022.

Admittedly, the petitioner is a juvenile and nothing has been put forth by the respondent-State that the petitioner if released on bail is likely to come into the association of any known criminal or expose him to moral, physical or psychological danger or that his release would defeat the ends of justice. As per Social Investigation Report of the petitioner annexed with the reply filed by the State, it recommends regarding rehabilitation of the petitioner and has suggested that counselling is the best way to rehabilitate the child, wherein it is mentioned that the petitioner belongs to a normal family with no previous delinquencies and he did the said act being in the company of other friends and any kind of apprehension may spoil his future and has also suggested that community service is the best way to rehabilitate the petitioner.

Keeping in view the same, further custody of the child in the Observation Home and the atmosphere therein may delay the process of rehabilitation which can be avoided. Moreover, in the context of the act, it is also required to see the specific need for supervision or intervention, circumstances as brought out in the Social Investigation Report. A little careful perusal of the Social Investigation Report would reveal that the important relevant factor for rehabilitation of the petitioner in exercise of

power of grant of bail at this stage is justifiable which is a very relevant factor granting bail to the petitioner. As per the said Social Investigation Report, the family has no criminal background and no other criminal case registered against the revisionist/petitioner. Further, since the co-accused have already been allowed bail and material witnesses stand examined and there are no other antecedents against the petitioner, no useful purpose would be served in keeping the petitioner in Observation Home.

Accordingly, the present revision petition is allowed and the impugned orders, i.e. order dated 14.10.2022 passed by the Juvenile Justice Board, District Panchkula and order dated 29.10.2022 passed by the Additional Sessions Judge, District Panchkula are hereby set aside.

Resultantly, it is ordered the petitioner be released on bail subject to his furnishing adequate bail /surety bonds through his natural guardian or near relative to the satisfaction of the Principal Magistrate, Juvenile Justice Board, Panchkula.

It is further directed that the petitioner shall, in no way, come in contact with the victim, either physically, electronically or by any other mode and shall maintain a reasonable distance from the victim, as both the petitioner and victim are stated to be neighbours.

(DEEPAK MANCHANDA)
JUDGE

17.02.2023
seema

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes /No</i>